G. R. S. IX-5]

Previous references. 1851-52.

~~191~~

(Courts

File No. 2 of 51-52

Serial Nos.

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. Memorandum

Part B for November 1851

SUBJECT.

Memorandum on the Administration of Civil Justice in Mysore by Messrs C. Vijayaraghava Naidu & P. S. Broughton

---

Indexed

W D 1250—GPB—30,000 - 28-1-19

Courts 2-57

Memorandum on the administration of Civil Justice in Mysore.

Mysore is divided into four Divisions viz. Nagaram, Bangalore, Chitteldroog and Nuggur. Each of these, is superintended by one European Superintendent with an European Assistant under the Orders of the Commissioner.

The Superintendent is the Revenue, Magistrate and Judicial Officer.

The following are the different Grades of the Courts of Justice in the four Divisions viz.

Nagaram Division

1 Sur Ameen's Court at Mysore
1 Town Moonsiffs' Court at Mysore
27 Amildars Courts
1 District Court at Munzerabad.
1 Principal Sudr Moonsiffs' Court at Mysore
1 Superintendents' Court at Mysore

Town

Bangalore Division

1 Town Moonsiffs' Court at Bangalore.
27 Amildars Courts
2 Principal Sudr Moonsiffs Courts at Bangalore
1 Superintendents' Court at Bangalore

Tumkoor Division

18 Amildars Courts
1 Principal Sudr Moonsiffs Court at Toomkoor.
1 Superintendents' Court at Toomkoor.

Nuggur Division

15 Amildars Courts
1 Principal Sudr Moonsiffs' Court at Nuggur
1 Superintendents' Court at Nuggur

The Commissioners Court which is denominated "The Hoozoor Adawlut Court", is established at Bangalore, the Head Quarters of the Commissioners, and it consists of three Native Judges

There are Pundits or Hindoo Law Officers, in the Principal Sudr Moonsiffs' Courts and in the Hoozoor Adawlut Court, where there is a Cauzee or Mahomedan Law Officer likewise.

According

According to the existing Regulations, the Mysore Sur Ameen, as a Civil Judge, his other duties being altogether Magisterial, has the power of trying and deciding without any record of Evidence, and without employing a Punchayet (unless required by the parties concerned), Suits not exceeding twenty Rupees in Amount or value, and his decisions are final.-

The Mysore Town Moonsiff has Authority to try and decide Original Suits (filed by the Inhabitants of the Mysore Town), for personal property only, exceeding in Amount twenty Rupees, and not above Five Hundred Rupees; and Appeals against his decisions, lie to the Principal Sudr Moonsiffs' Court at Mysore.-

The Bangalore Town Moonsiff has Authority to try and decide Suits (filed by the Inhabitants of

the

the Bangalore Town, for personal
property, from the smallest value to
One Thousand Rupees; and Suits for landed
property, from the smallest value to
Five hundred Rupees; and Appeals against
his decisions, lie to the Superintendent's
Court at Bangalore.

Every Amildar, excepting
at Mysore and Bangalore, where Town
Moonsiffs Courts are established, has the
power of trying and deciding without any
record of Evidence, and without employing
a Punchayet (unless required by the
parties concerned), Suits not exceeding
twenty Rupees in Amount or value;
and his decisions in such Cases are
final.

In all Suits for landed
and landed property, however small
the extent or value may be, the Amil-
dar keeps a full record of his proceedings
and decisions.

The Amildar has the
power

power of trying and deciding without employing a Punchayet (unless required by the parties concerned) Suits for personal property exceeding twenty Rupees, but not above one Hundred Rupees, keeping a full record of his proceedings. -

The Amildar has also the power of deciding by Punchayets, Suits respecting personal property and houses and lands not exceeding five hundred Rupees in value or Amount

The District Moonsiff in Munjerabad, has the power of trying and deciding Suits for personal property (filed by the Inhabitants of Eleven Talooks placed under his Jurisdiction) exceeding in Amount five hundred Rupees, and not above three thousand Rupees, and Suits for landed property, from the smallest value to one thousand Rupees

The Appellate Jurisdiction of the Munjerabad District Moonsiff, in these Eleven Talooks, is the same

ov.

as that of the Principal Sudr Moonsiffs.

The Principal Sudr Moonsiff has the power of trying and deciding all Appeals from the decisions of the Amildars in his Division.

The Principal Sudr Moonsiff, has also the power of trying and deciding Original Suits for personal property exceeding in Amount, one hundred Rupees, and not above five Thousand Rupees; and Suits for landed property, from the smallest value to the value of one Thousand Rupees.

The Principal Sudr Moonsiff, at Mysore has no Authority to try and decide Suits filed by the Inhabitants of that Town, for personal property in value under five hundred Rupees.

The Principal Sudr Moonsiffs at Bangalore, have in like manner no Authority to try and decide Suits filed by the Inhabitants of that Town, for personal property in value

under

under one thousand Rupees /

The Principal Sudr Moonsiff has no Jurisdiction in Cases involving disputes respecting the right to the possession of Circar Lands, or relative to the revenue of the State - Such Cases being cognizable only by the Subordinate Revenue Authorities, the Superintendent, and ultimately the Commissioner. -

The Principal Sudr Moonsiff tries and disposes of all Cases referred to him by the Superintendent of his Division, as if they are filed in his own Court. -

The Superintendent has the power of trying and deciding all Appeals against the decisions of the District Moonsiff and the Principal Sudr Moonsiff, and all Special Appeals against the decisions of the Auditors. -

The Superintendent has also Authority to try and decide Original Suits for personal property in value, exceeding

exceeding five thousand Rupees, or landed property in value exceeding one thousand Rupees.

The Superintendent exercises a general supervision over the proceedings of the Principal Sudr Moonsiff and the other subordinate Judicial Officers within his Division.

The Sudder Adawlut has the power of receiving and deciding all Appeals and Special Appeals from the Subordinate Native Tribunals.

When the Commissioner wishes to preside at the Sudder Adawlut, the three Judges are employed as Assessors, on the trial of any Case, in which he may deem it necessary to enter.

The Commissioner also tries any Case which he thinks it necessary to try by means of a Punchayet, with or without the assistance of the Judges of the Adawlut. The Commissioner at his discretion, requires the Judges

to

to Summon a Punchayet in aid of their proceedings, and requires them to give their Opinion upon any Case, Original or Appeal, in the manner he may prescribe; as well as those for which no regular course of appeal is provided, — and which are brought to his notice thro' the Channel of his Zillah Sudders.

The several Judicial Officers are authorized to levy fines upon the litigant parties and witnesses, for contempt of Court and disobedience of Orders, to the following extent viz.

Sur Ameen to the extent of	7	Rupees
Amildars - - - - - -	7	do
Mysore Town Moonsiff - - - -	7	do
Bangalore Town Moonsiff -	10	do
Mungerahad District Moonsiff	15	do
Principal Sudr Moonsiff - - -	15	do
Superintendent - - - - - - -	30	do

The Honble Board and the Commissioner within any Sum at their discretion, but the fines awarded by the former are subject to remission by the latter.

No

As a general Rule, no Suit, the cause of Action in which has arisen at a Date Longer back than Sixteen Years, from the date of its institution, is admitted, but if the Plaintiff shews by clear and positive proof, either that he had demanded the Money or matter in question, and that the Defendant had admitted the Justice of the Claim, or that he had directly preferred his Claim within the period of Sixteen Years, to a Competent Authority, but did not proceed in the Suit from Minority, or from being absent at a Foreign Country, or from other good and Sufficient Cause, the Suit is admitted. -

When a Person files his Plaint in any Court, he undergoes in open Court, before the Defendant is Summoned, a viva voce Examination by the Judge, who if he sees Grounds to suspect that the Plaintiff is not making a demand Bonafide, requires to issue the Notice

to

to the Defendant, until the Plaintiff has deposited a Sum sufficient to cover the probable Amount of the Costs, that is to say, all expences likely to arise out of the Suit (including the fee) or given Security for the same. But the Plaintiff has the option in all Cases, of making the deposit or giving Security in lieu of undergoing Examination. Whenever the Judge refuses to give the Notice, he endorses his reasons for refusing, on the back of the recited Plaint

The Plaintiff presents with his Plaint, a List of Witnesses whom, and the nature of the Documents+ which, he intends to produce at the trial. - The Plaintiff mentions the Name of the Defendant, the Name of his Village, his Occupation, the nature of the Claim & the time when the cause of Action arose. - If the Plaint does not contain sufficient particulars, it is returned to him, he being informed in open Court

+ Note - all unstamped documents produced by the Parties, are received and filed upon their paying a fine equal to ten times the Amount of Stamp duty leviable upon each of them. -

Court, of the cause of the return. If he files the Plaint in the regular form, it is then admitted on the File of the Court.

The Judge then issues a Notice to the Defendant, stating the Name of the Plaintiff, and the nature of the Claim preferred against him, and requiring him personally to appear before the Court on the day specified which is fixed by the Judge with reference to the distance of the place of his residence, or to send any of his relations or confidential friends to the Court, to answer the Claim. If the Defendant be a public Servant, & Notice is served upon him thro' the Department to which he belongs; and all other subsequent processes are served direct upon him, like the other Defendants. Upon every Defendant not of public employment, the Notice is served thro' a Summon Man, who is allowed Batta of two Annas per diem for the distance at the rate of 10 Miles a day. The

Peon

Peon is allowed an additional Rupee per diem for the number of days he may be employed in serving the notice upon the defendant temporarily residing in another Division - in the latter case, if the Judge sending the notice, be the Sur Ameen Some Moonsiff or Umeedar, he requests the Umeedar of the Taluk in which the defendant resides, to afford necessary assistance to the Peon in the execution of the writ. If he be the District Moonsiff or the Principal Sudr Moonsiff, he communicates with the Principal Sudr Moonsiff of that Division, on the subject, and if he be the Superintendent, he writes to the Superintendent. The Peon is paid Batta until he serves the writ and returns it to the Court. He obtains the Signature of the defendant on the back of the writ, in acknowledgement of it's having been served. Also the Counter-Signature of some public Servant or respectable Person nearest the place of the defendant's residence.

If

If the defendant does not appear in person or by Counsel, within the time specified in the notice, or does not submit a Representation to the Court, of the Cause if any, for his non-Attendance, the Judge upon the Application of the Plaintiff or his Counsel, either in person or in writing, but not otherwise, as the parties may in the mean time be engaged in compromising the matter and file Applications or Petitions for withdrawing the suit, issues a Proclamation to him thro' the Sheriff of the District in which he resides, referring to the notice previously given and disobeyed by him, and directing that he should appear before the Court within fifteen days from the date on which it shall be seen and Signed by him, or affixed to the outer door of his house; that should he fail to do so, the Plaintiff's Attorney will, on the expiration of that period, be

Summoned

Summoned and examined, and that the Court will afterwards give an Ex parte Judgement on the Merits of the Case.

In the Case of the Defendant submitting to the Court, an Application for leave within the period mentioned, or within a very few days after it's expiration, on the score of sickness, or upon any other ground, the leave for a certain Number of days at the discretion of the Judge, is accordingly given to him, and if, after the expiration of the leave, he has failed to appear before the Court, and made an Application either for an extension of leave, or for a Copy of the plaint, upon some cause or other, stating that he has no friends or relations to send to the Court for him, the original Application is sent to the Amildar, with a request that he will have the Defendant before him in his Court, and ascertain by proper Inquiry, whether his cause for

non

non-attendance before the Promissory Court, as mentioned in the Application, is satisfactory, and whether he is actually unable to send a relation or friend as his Counsel, and report the result.

If the result be favorable to the Defendant, and if the Judge deems further delay in the Defendants Answer being obtained, should not take place, he then orders a Copy of the plaint to be furnished to him thro the Amildar, who gets his Answer in the regular form within a reasonable time that he allows, and forwards it to the Court.

If the Defendant fails to give his Answer to the Amildar within the period, he reports the circumstance to the Judge, who immediately summons the Plaintiffs witnesses, and proceeds with their examination to decide the Case.-

Before the witnesses ex-
-amination has commenced, if the Defendant

Defendant appears before the Court, state satisfactory cause for his not having filed the Answer in due time, and be permitted to defend the Case, a requisition is first sent to the Alcalde of the Tribe in which the witnesses reside, to order them not to go to the Court until further Orders, and then, a Copy of the Plaint is given to the Defendant, but if he attends after the examination of witnesses has commenced, he is not allowed to have a Copy of the Plaint, nor defend the cause, but the Case is proceeded with, for an ex parte Judgment.-

In the Case of a defendant or his Vakeel appearing before the Court as required by the Notice, a Copy of the Plaint is furnished to him by the Nazir of the Court, and he files an answer thro that Officer.- If it acknowledges the Justice of the demand in full, the defendant is called into open Court, and asked by the Judge himself, if he has given

given such an answer. Should the answer
in the affirmative, the Judge notes that
down in his own hand writing on the face
of the Answer. The Judge takes also a
Deposition from him to that effect, which
is attested by witnesses. In the event of
the Answer being received by post, and
the defendant being absent, the Warden
of the Talook to which he belongs, is
called upon to authenticate the fact,
and then, a decree is issued in favour of the
Plaintiff.

Should the Answer of the
defendant dispute the validity of the
Claim, in that case, defendant file
a list of his witnesses and documents, and
the Judge then causes a Copy of the Answer
to be furnished to the Plaintiff, who
furnishes a Reply, and the defendant
on being furnished with a Copy of this,
files in his Rejoinder. The Plaintiff is not
furnished with a Copy of this.

After either the Answer or
the

the Rejoinder is filed, if the Plaintiff does not appear before the Court, a Proclamation is issued to him, directing that he should attend the Court and prosecute his Case, and stating that, if he does not do so, his Case will be struck off the File of the Court. The period within which the Plaintiff is directed by the above Proclamation to appear, is limited by the Judge, with reference to any delay on the part of the defendant to file his Answer or Rejoinder, which delay may have compelled the Plaintiff to quit the Court Station, in order to attend to his business in his own Village, or in some distant part of the Country.

In the Case of the Plaintiff failing to appear before the Court, according to the Proclamation, if it appears to the Judge by the Answer or Rejoinder, or any document, which the defendant may have filed, that the Plaintiff has proposed

preferred a false and vexatious Claim,
merely to annoy the defendant and
absconded, the Judge dismisses the Suit
and levies upon him, fee proportioned to
the Amount of the Claim; but if the
Judge be of Opinion that the Answer
or the Defender, is not a satisfactory
refutation of the Justice of the de-
-mand, and that the Plaintiff has
not absconded from Circumstances
unexplained, he simply states in the
Dismissal that the Suit is
struck off the Role of the Court, in-
-consequence of the non Appearance of
the Plaintiff before the Court as directed.-

The Superintendent has
the Power, if petitioned by the Plaintiff,
to the effect that the Case has been
improperly or without sufficient grounds
dismissed by the Judge of the lower Court
of calling for its proceedings and exa-
-mining them, and if he be of Opinion
that the grounds for the dismissal of

the

the Case, are not satisfactory, he orders the Suit to be re-examined and disposed of in the regular manner.

In all Cases, in which the pleadings on the part of the litigant parties, have been regularly conducted, either the parties or their witnesses are first examined. The former are first examined only when the Judge supposes on Looking into the pleadings, that the adjudication of the Suit may depend upon their examination chiefly. They are not examined upon Oath, being interested parties. They are confronted in their examination, and permitted to cross examine each other.

In the event of their misling between themselves, during the course of their examination, or at any stage of the Proceedings, to decide the dispute by Oath, they are permitted to do so in any place out of Court, and without the intervention

intervention of the Public Authorities.—
Thus, their case is easily disposed of
by virtue of such oath

In the case, in which, even
after the examination of the litigant
parties in the first place, the exa-
mination of their witnesses may appear
to be necessary, the list of witnesses
are once more looked into; And if any of
the witnesses, are therein stated to be
residing at a greater distance from the
Court station, than 150 miles, and if
the Judge thinks that, their Evidence
before the Court, is not indispensable,
or of great importance to the Case;
he explains the same to the parties,—
and suggests to them, the expediency of their
giving visits of Questions, relative to the
points upon which their Evidence is
required. They are received and sent to
such witnesses, thro a Public Authority,
who obtains their Answers on Solemn
affirmation, and gets them attested by
witnesses

Witness, and re-turned by the list, with his Counter Signature.

If the examination of any of the Witness, has been rendered unnecessary or useless, by the pleadings of the parties, the Judge explains it to the parties, and their assent for the examination of such Witness being dispensed with, is taken down in writing, and filed in the proceedings of the Case.—

To the remaining Witness, whose Evidence may appear to be material, the Judge issues Summons, viva voce Pears, directing that in the Case (Name & Year being duly mentioned) of such a person & such a person, their Evidence being required by the Plaintiff or defendant, they shall appear before the Court at such an hour and on such a date. If they failed to do so, they are fined according to their means of paying the Amount of fine.— If they in writing, Submit Petition to the Court, stating

stating that they are prevented by sick-
-ness, or by unavoidable circumstances, to
attend at the Court, and praying for per-
-mission to adjourn after so many days,
their Petitions are sent to the Auditor
with a request that, he will ascertain
whether the Petitioner's pleas are true,
and report the result of his Inquiry -
If this be favorable, they are permitted
to appear within a reasonable time,
but if the result of the Auditor's In-
-quiry be unfavorable, they are fined
again for false Plea; and their attendance
is enforced by the Auditor, according to
the Order of the Court -

Parties present list of
Questions to some of their respective
witnesses, without the Suggestion of the
Court - The are filed by the Plaintiff,
if known to the Defendant, who adds
some Cross-questions to the witness; and the
same privilege is granted to the Plaint-
-iff, respecting the List of Questions
presented

presented by the Defendant. The Judge adds to them, his own Questions upon any point that has been omitted by the parties, and obtains the Answers of the witnesses, thro the Umlcar.

All Ordinary Cases are disposed of, without the aid of a Punchayet; but in all Cases, involving Claims for real or personal Property, and for Money due on Account, when the witnesses, Summoned, appear before the Court, the Judge Summons a Punchayet, of not less than five Members. They are not appointed either by the Judge, nor by the parties in the cause, but are taken by rotation from the Nominal List of Punchayetdars kept in the Court

I should any person, whose name stands next on the List of Punchayetdars, be sick or engaged in another Case, then the next on the List is nominated, and so on, as occasion demands.

After five Members have been

been appointed, the Plaintiff and Defend-
-ant, may object to three of the five
members, upon grounds that they are
related to the adverse party, or have
personal interest in the Case at issue.
On this point, the Judge enquires, and
decides Summarily, and his decision is
final, as far as concerns the progress
of the Suit. -

If the Plaintiff and the
Defendant, or one of them, be foreigners,
then in addition to the five Panchayetdars
taken from the rotation List, the Judge
at the request of the parties concerned,
chooses by lot, two foreigners, out of the
number presented by the parties for se-
-lection; and these two foreigners are
associated with the rotation Panchayet,
which then consists of 7 instead of
5 members. -

The Panchayet sits with
the Judge in Open Court, and access
to all persons who may wish to hear

the

the proceedings, is allowed -

Then, the examination of Witnesses upon Oath, commences in the presence of the parties or their Vakeels, and the Punchayet Bars. - The age, Occupation, Parentage and residence of each Witness, is first of all recorded; and then his Evidence is taken down in writing. - The parties are allowed to take Notes of the Evidence. When one Witness is under examination, other Witnesses are not allowed to be present. An examined Witness is not permitted to speak with the parties or other Witnesses, in the Court. - If any of them during the Inquiry, shew Contempt of Court, or refuses to answer, he is fined according to his station in life and means; and in default of payment, he is confined in the Jail, for a period proportioned to the Offence. - Every Witness is cross-examined by the parties or their Vakeels.

Witnesses

Witnesses are not permitted to cross exa-
-mine each other.. If any of them,
is found by the Judge and the Panch-
-yat, to have wilfully perjured himself
he is reported to the Superintendent by
the Judge.. Such a report is made
to the Commissioner, when a witness per-
-jures himself in the Adawlut Court..
Upon Authority granted by the Supe-
-rior Court, the perjured witness is
committed to take his trial on the
Criminal Side..

If the Panchayat, in
the course of the Inquiry, be reduced
by death or sickness, to three Mem-
-bers, and the sick Member does
not again attend within 8 days,
the Judge either orders the three
Members to conduct the proceedings,
or associates two fresh Members,
the next on the rotation List..

After examination
has been completed, witnesses are

terminated

permitted, to return to their Houses;
The Judge before their departure,
awards and causes to be paid to
them, Batta if they have been sum-
=moned from a greater distance
than Ten miles. This daily subsistence
is proportioned according to the rank
and circumstances of the Witnesses;
and varies from one Anna to one
Rupee per diem. The Batta is paid
by both Parties to their respective
Witnesses. The amount paid by the
party gaining the cause, is subse-
=quently charged to the Losing
Party, and a specific mention
of such Sum, is made in the con-
=cluding part of the Decree.

If the Plaintiff be a Pauper,
the Batta for his Witnesses, is defray-
ed by the Government, on a certificate
of the Court, shewing that the Plaintiff
has not the means of defraying
such expences. and the amount is
charged finally to the party losing
the Suit, if he be able to pay the
same.

The Punchayet, to whom

the Proceedings of the Case, retire to a Room in the Court House, and after mature consideration, give in writing, their verdict to the Judge, either on the same day or in two or three days, as the nature of the Case may be.- If they do not give it on the same day, the Judge takes their opinion in a Slip of Paper, to which they affix their Signatures, as to whether the claim of the Plaintiff is proved or not, and then permits them to give their verdict in detail afterwards.-

The Judge perusses the verdict of the Punchayet, and if he thinks that, any points of importance bearing upon the Case, have escaped their observation, he explains the same to them, and sometimes recommends them to alter their verdict, but they are not compelled to do so, they being free to adopt or reject the Judge's Recommendation.

The Judge then Reviews the whole of the Proceedings of the Case; and if he finds the verdict of the Punchayet to be unjust

or

or partial, he passes the Decree according to his judgement, explaining in the Decree, his reasons for not concurring with theirs view of the Case.

In all Cases involving Claim for Share in the family Property, and for maintenance, the opinion of the Law officer is obtained, and Decrees are issued according to it.

The Decree contains the substance of the pleadings, the Evidence adduced, the verdict arrived at by the Punchayet, and the decision of the Judge.

In all Cases in which the Judge is of opinion that the actions were brought or defended with the intention to defraud, he levies a fee upon the Losing party, proportioned when payable by the Plaintiff, to the Amount claimed, and when payable by the Defendant, to the Amount decreed; and this is duly mentioned in the concluding part

part of the Decree. But the Superior Judicial Officers, i.e, the District Moonsiff, the Principal Sud^r Moonsiff, the Superintendent and the Huzoor Adawlut, on Appeals to them, are empowered to remit the fee upon specific cause shewn; the Moonsiff making a Report of such remission to the Superintendent, and the Huzoor Adawlut, to the Commissioners.

The Superintendent and the Huzoor Adawlut, are also empowered to exact a fine besides the fee, subject to the approval of the Commissioner, from either or both parties, in flagrant Cases of Malice and falsehood, or where a proper claim has been wilfully exaggerated. but the fine is not in any Case, to exceed the Amount of the fee.

Whenever the Amiloar and Moonsiff are of opinion that, a fine should be levied in addition to fee, they report the cases to the Superintendent, and act according to his orders.

The fee is intended as a

Check

check to fraudulent and vexatious litigation, and the fine is intended as a punishment in flagrant cases of Malice and falsehood.-

Copies of the Decree are issued to the parties, with as little delay as possible.-

In the event of the losing party failing to appear before the Court, to receive the Copy of the Decree, the Judge sends it to the Amildar of the Taluk to which he belongs, with a Notice addressed to the party, directing him to appear before the Amildar to receive the Decree issued in his Case, within the period of Ten days from the date on which the Notice is either served upon him, or affixed to the outer door of his House.- If he does not receive it within the above-mentioned period, the Amildar Returns it to the Court, and it is placed Amongst the proceedings of the Case, a Note being written therein that it was not received by the losing party.-

After

After the Decree is delivered to the parties, an appeal against it, may be presented within thirty days from the date on which it has been delivered.- If the appealing party be the Plaintiff, the Judge admits the appeal and forwards it on to the Appeal Court, stating on the back of it, the day of the month and year, in which it was presented.- But if the Appealing party be the Defendant, his appeal is admitted on his paying the Costs, also the fee and fine if imposed, and provided he gives good Security for the Amount awarded, but not otherwise.-

As a General Rule, no Special Appeals are admitted in Cases of personal property; but in Suits for real property, Appeals in Succession to the highest Courts are allowed.-

The Superintendent and the Commissioner admit Special Appeals in Suits for personal property, if the Judges and Punchayetdars

are

are Charged by the parties with corruption or Gross partiality.-

Appeal and Special appeal

Decrees are always transmitted for delivery to the parties, thro' the Courts against whose Decrees, the appeals were made, in order that the Judges of those Courts, may be informed of the result of such appeals.

When applications are made for the execution of Decrees not appealed against, and passed by the Courts of the Sir Ameen, the Sooa Mooniff and the Amildars, these Courts execute such Decrees under the authority of the Superintendent, but the District Mooniff, the Principal Sudr. Mooniff, the Superintendent and the Huzzoor Adawlut, execute their Decrees not appealed against, on their own responsibility; but in the Cases of landed property, the Mooniffs execute their Decrees

under

under the authority of the Superintendent.

Decree is executed in the follow-
-ing manner. When application is received,
the Judge directs the Amildar of the
Taluk in which the Judgement debtor
resides, or his property is situated, to
recover the award from him and pay
the same to the Creditor, reporting it
to the Court. If the Debtor fails to pay, the
~~[illegible]~~ upon application of the Creditor
Judge directs the Amildar, to destrain
the property of the Debtor at once,
and send an Estimate of the probable
value of it, making a full report
after proper enquiry, whether the property
destrained, is free from encumbrances,
and whether any balance is due by
the Debtor to the Circar. The Amildar
after enquiry, forwards an inventory
of

of the Defendants property attached, taken in the presence of a Punchayet, together with the other Statements called for.- If the encumbrances are clearly proved to be existing, and the amount thereof, exceeds the value of the property distrained, the property is released from distraint, and the Creditor is told by the Judge, or his application is returned to him with an Endorsement to the effect that, he should point out any other property of the Debtor free from Encumbrances, and upon which the Decree may be executed.- But if that amount, Viz, the amount of the Encumbrances, be less than the value of the distrained property, the Judge issues notice to the Debtor that, if he does not

not pay the Judgement debt, within
a month from the day on which
the Notice is seen, and signed by him,
or affixed to the outer door of his
house, his property under distraint will
be disposed of by public auction to
satisfy the Judgement debt-

From the proceeds of such
sale, public claims if any, are first
made good- then, the Encumbrances
are adjusted, and the balance is
paid to the Creditor-

If a Judgement debtor pro-
poses to pay the debt by monthly,
or quarterly, or half yearly or yearly
instalments, the Judge ascertains the
wishes of the Creditor, and if he assents
to the arrangement of payment, the
Judge collects the monies thro' the

Amildar

Bailiff of the Talook in which the debtor resides, and causes the same to be paid to the Creditor, taking Receipts from him on Stamped Papers, and noting the Payments in the Decree -

Judgement debtors are imprisoned at the Request and expence of their Creditors, but if the Judge, after a proper lapse of time, finds that any of them is truly insolvent, he issues a Notice to his Creditor, calling upon him to shew good cause for the further detention of the insolvent. If the grounds urged by that Creditor are not satisfactory, the insolvent is discharged; but he continues liable to his Creditor whenever he again acquires means to liquidate the

the debt; and any attempt on his part to evade payment afterwards, subjects him to re-imprisonment till he takes measures to satisfy his Creditor-

In the Decree executed, a note is entered that it was executed, and the Signatures of the parties are affixed to it-

If a party adjudged to pay fine, imposed in addition to the fees, fails to pay it, his property to the Amount due is destrained and sold.- If he has no property, he is punished by incarceration according to the extent of default on this account- The imprisonment does not exceed six Months-

Defaulters in fees, are not allowed

allowed to institute or proceed in any suit, as Plaintiffs in any Court whatever, and half Yearly Annual Lists of them, are furnished thro' the Commissioners Cutcherry to the Superintendant, for their information and for the information of the several inferior Courts in their Divisions -

No professional Vakeels or pleaders, are allowed to be employed in the Courts, either to institute or defend suit for the parties; and if any of the Vakeels of the parties being either their friend or relation, is found to have deceived his client, he is committed to take his trial for breach of trust, upon application from the party for whom he acted as Vakeel -

All

All persons who attend the Courts, whether as parties in a cause, or as Witnesses, are treated with the attention and respect due to their Rank and station in life, consistently with the dignity of the Courts; and processes issued to such persons, are always addressed in forms suited to the different degrees of their Rank.

In the cases in which claims for the recovery of real property, and for a share in the family property, are involved, the Plaintiffs either from a desire to secure their own interests, or from malice, or with the view of disgracing their adversaries, apply to the Judge for the sequestration of the property in dispute, before the Cases come under trial; but in these

Cases,

Cases, the Judge uses his own discretion
in complying with the application -

The Commissioner having, by
repeated Proclamation, exhorted the
people of the Country to settle their
disputes as in ancient times, by
application to the Patels, Chettiers, or
other Head-men, without the interference
of the Public Officers, and without
the payment of fees, many parties
between whom disputes exist, mutually
consent and submit their disputes
(whatever may be the amount or
value of the money or other property
sought to be recovered) except cases
of Inheritance or Immunity privileges,
which are of necessity settled by the
Circar alone) to a Punchayet which
they convene - It consists of not
less

Less than five Members, two of whom are nominated by each party, and these together, nominate a President.

After the appointment of the Punchayet, the parties execute Agreements, binding themselves to abide by its decision without appeal, and these agreements are registered in the Amildar's Cutcherry by the parties themselves, or by their people under their authority.

The Punchayet then proceeds to enquire into the matter in the usual manner, by summoning the parties and their witnesses, before them and examining them. And, on completing their proceedings, they furnish their Judgement on the case, to each of the parties and to the Amildar.

If

If the party in whose favor the award is passed, applies to the Amildar for the recovery of the money, or other property from his defendant, that Officer forwards such application, together with the Judgement of the Punchayet furnished to his Court, and the agreements executed by the parties, to the Superintendent of the Division, who on being satisfied that the party applying, has a just claim to his interference, issues the usual order to the Amildar to recover the amount, whether in money or in property (by distraint and sale if necessary), and in failure of the means to satisfy

the

the amount, by imprisonment of the debtor, in the same manner as obtains in Cases tried by Courts.

Wyeth Ramsay
P. S. Monsieff
Bangalore Division

Bangalore
15th Nov. 1851

Memorandum on the
administration of
Civil Justice in
Mysore.-